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joined the order, had unselfishly devoted his life to the charitable purposes of its organization, had worked continually that the moneys derived from his labors might be used by the society for such purposes, and, after he had died in full communion with the order, his heirs could recover from the order the value of his services; that as the constitution of the order provided that he might leave whenever he chose, the contract did not deprive him of his right of acquiring property, and forever incapacitate him from owning property; that the fact that for some years before his death, he was a resident of another state, and was permitted by the abbot to retain his earnings and use them for charitable purposes, did not release him from his vow of poverty, nor make such earnings his individual property, but merely constituted him agent of the order in disposing of the money in charity, which agency terminated with his death.

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**Negligent Communication of Smallpox.**—Plaintiff in *Franklin v. Butcher*, 129 Southwestern Reporter, 428, brought an action to recover for the loss of wages of her minor son, and for money expended while he was suffering from smallpox contracted through the negligence of defendant. Plaintiff's first husband, the minor's father, was dead, but at the time she had again married. The court, in passing upon the plaintiff's right to recover such wages, held that it was not necessary that the mother should employ the son at a fixed wage to establish the relation of master and servant between them, as it grew out of the relation of the parties; that after the death of the father the duty to support the son devolved upon the mother, and she then became entitled to his wages as a corollary to the duty to support him. It was also held that if defendant negligently and carelessly communicated the disease to the son it was immaterial whether it was done willfully or intentionally, and also as to how it was done if it was negligently done. The plaintiff's husband in a companion case, *Hendricks v. Butcher*, 129 Southwestern Reporter, 431, recovered for the communication of smallpox to his entire family.

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**Conflicting Jurisdiction.**—An intricate legal tangle is attempted to be unraveled in *Illinois Central R. Co. v. Sheegog*, 177 Federal Reporter, 756. Sheegog, as administrator, brought an action in the Union county circuit of Kentucky against the Illinois Central Railroad Company and others for wrongfully causing the death of his decedent. Petition for removal to the United States Circuit Court on the ground of separable controversy and fraudulent joinder of parties defendant for the purpose of preventing such removal was denied. The defendant Illinois Central Railroad Company thereupon filed a transcript of the proceedings in the federal court, which denied a motion by plaintiff for remand to the state court. This left the cause apparently pending in both courts, and in both courts it was prosecuted to judgment. In the state court plaintiff recovered a

judgment for \$8,250, while in the federal court judgment was directed for defendant. No appeal was taken from the judgment of the federal court, but defendant prosecuted a writ of error from the judgment of the state court to the Kentucky Court of Appeals, and from that on the United States Supreme Court, both of which tribunals affirmed the decision of the Union county court, and held that the petition for removal was properly denied. Defendant then filed in the federal Circuit Court an application for injunction to restrain enforcement of the judgment of the state court. The Circuit Court discusses the question as to the validity of its own judgment, and holds that as it was not directly questioned by appeal or proceedings in error that it is void, notwithstanding the decision of the Supreme Court on writ of error prosecuted from the state court. But, conceding this to be the fact, it still remained true that plaintiff had a valid judgment in the state court, and, as the questions presented to the Supreme Court were the same as they would have been had the writ of error been taken from the judgment in the federal court, it was held that defendant was judicially estopped from relying on the judgment of the federal court as a bar to the enforcement of that of the state court.

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**American Acquires Domicile in China.**—Henry Cunningham, abandoned his domicile of origin in Waldo, Me., and made his home, established his business, and had his headquarters, from 1869 until the time of his death, 36 years later, in Shanghai, China. The problem in *Mather v. Cunningham*, 74 Atlantic Reporter, 809, is, Can an American, under any circumstances, acquire, as a matter of law, a domicile in the province of Shanghai, a place where, by treaty, American law is substituted for Chinese local laws? Counsel contend that the term domicile necessarily implies subjection and obedience to the local laws of the domicile, and that this cannot be said to be true of a residence in Shanghai, because its laws governing American citizens are extended by treaty instead of edict. The Supreme Judicial Court of Maine holds that as the ownership of the soil controls the establishment of all local laws and without the consent of the sovereign, no extraterritorial law can be enacted within an independent jurisdiction, or extended to it, the American law became the local law when the Emperor of China permitted Congress to extend it by treaty; that the fundamental idea of domicile does not depend upon any distinction with respect to the source of the law; that Chinese domicile gives a decedent's estate a fixed place of abode, and subjects it to the law governing the locality, and, whether American law or Chinese law, it is, nevertheless, the law of the place, as to American citizens. After a lengthy but well-reasoned and interesting opinion, the conclusion of the court is that Cunningham acquired a domicile of choice in Shanghai.